

Plaintiff's Name Tijne Adolphus McGhee  
 Prisoner No. 1156331  
 Institutional Address MAGUIRE CORRECTIONAL  
FACILITY 300 Bradford Street  
Redwood City, CA. 94063

**FILED**

JUL 28 2023 BAA

CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA

Tijne Adolphus McGhee  
 (Enter your full name)

v.

County of San Mateo and  
Christina Corpus, in her official  
capacity as Sheriff of the County  
of San Mateo.

(Enter the full name(s) of all defendants in this action)

Case No. 23-01521 HSG (PR)  
 (Provided by the clerk upon filing)

**"AMENDED COMPLAINT"**

COMPLAINT BY A PRISONER  
 UNDER THE CIVIL RIGHTS ACT,  
 42 U.S.C. § 1983.

**AND RLUIPA THE RELIGIOUS  
 LAND USE AND INSTITUTIONALIZED  
 PERSONS ACT, 42 U.S.C. § 2000cc, et seq.**

**I. Exhaustion of Administrative Remedies.**

*You must exhaust available administrative remedies before your claim can go forward. The court will dismiss any unexhausted claims.*

A. Place of present confinement MAGUIRE CORRECTIONAL FACILITY

B. Is there a grievance procedure in this institution? ☒ YES ☐ NO

C. If so, did you present the facts in your complaint for review through the grievance procedure?  
☒ YES ☐ NO

D. If your answer is YES, list the appeal number and the date and result of the appeal at each level of review. If you did not pursue any available level of appeal, explain why.

1. Informal appeal: Not Resolved.

2. First formal level: 12-18-2022 sent grievance to shift  
sergeant and for response about the deprivation  
of my U.S. Mail.

3. Second formal level: Grievance was replied to on 12-27-2022  
stating all mail is sent by senders to SMART COMMUNICA-  
TIONS IN FLORIDA.

4. Third formal level: For the third and final level, sent  
a letter to the "Watch Commander" on yellow ruled paper  
the date of 1-1-2023 No reply.

E. Is the last level to which you appealed the highest level of appeal available to you?

☒ YES

☐ NO

F. If you did not present your claim for review through the grievance procedure, explain why.

## II. Parties.

A. If there are additional plaintiffs besides you, write their name(s) and present address(es).

Stephanie Krent Knight First Amendment Institute At Columbia University  
475 Riverside Drive, Suite 302 New York, NY. 10115  
Cara Gagliano Electronic Frontier Foundation 815 Eddy Street San Francisco, CA 94109.

B. For each defendant, provide full name, official position and place of employment.

County of San Mateo and Christina Corpus,  
San Mateo County Sheriff's Office  
330 Bradford Street  
Redwood City, CA. 94063

## III. Statement of Claim.

State briefly the facts of your case. Be sure to describe how each defendant is involved and to include dates, when possible. Do not give any legal arguments or cite any cases or statutes. If you have more than one claim, each claim should be set forth in a separate numbered paragraph.

Plaintiff Tijue Adolphus McGhee Alleges As Follows: I.  
This is a civil rights complaint for declaratory and  
injunctive relief and monetary damages  
brought over for the "policy" of San Mateo

County and Sheriff Christina Corpus digitizing and "willfully destroying United States Federal mail" sent to the plaintiff inside the County's jail facilities. Depriving plaintiff of the original physical letters, cards, drawings, and conducting suspicionless, intrusive surveillance of not only the mail but that of the individual senders of that mail. On (4) four different occasions plaintiff's mail was "destroyed" by "San Mateo County's Mail Policy". On 12/27/2022, plaintiff received mail from his mother with personal sticker tags containing name, address and Trumpet Horn/Bugle attached to a blue envelope. This piece of mail was sent on 12/19/2022. Inside was a card and letter. On the card was a drawing of the (3) three wise men and baby Jesus in a manger. The original was sent to "SMART COMMUNICATIONS" a private for-profit company in the state of Florida where the envelopes and the contents were all "destroyed".....

#### IV. Relief.

Your complaint must include a request for specific relief. State briefly exactly what you want the court to do for you. Do not make legal arguments and do not cite any cases or statutes.

WHEREFORE, Plaintiff respectfully prays that this Court enter an order: A. Issue declaratory relief that Defendants' mail policy—which includes the opening, examining, digitizing physical mail and retaining mail and sender information for subsequent investigative use, and lastly destroying the

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Executed on: \_\_\_\_\_

Date

  
Signature of Plaintiff



2. On 2/07/2023, plaintiff received mail from his mother with her personal butterfly sticker tag containing her name, address, and designed with a bass violin attached to a beige envelope. This piece of mail was sent on 2/03/2023, Inside was a card and letter with (2) two dove birds on a branch. The original was sent to, "SMART COMMUNICATIONS" a private for-profit company in the state of Florida where the envelope and the contents were all "destroyed".

3. On 2/09/2023 Jehovah's Witness Prison Ministry's wrote to plaintiff about being able to contact them for religious study materials to maintain focus on the practice and power of prayer to free myself of stress and depression plaintiff have been experiencing. Reaching out to express to plaintiff he is loved by GOD. This religious material in its original form was sent to, "SMART COMMUNICATIONS" a private for-profit company in the state of Florida where the envelope and the contents were all "destroyed".

4. On 5/22/2023, plaintiff received mail from, "BLACKSTONE CAREER INSTITUTE" College Law School



1 in Allentown Pennsylvania where plaintiff was planning  
 2 to attend while in the County jail to further  
 3 educate himself in law, by becoming a paralegal  
 4 under the "Paralegal Certificate Program"  
 5 provided to incarcerated people like plaintiff.  
 6 Plaintiff cannot receive the materials required  
 7 to study law at Blackstone Career Institute  
 8 due to the policy of San Mateo County and  
 9 the Sheriff's office. All the original materials  
 10 sent to "SMARTCOMMUNICATIONS" a private for-  
 11 profit company in the state of Florida where the  
 12 envelope and the contents were all destr-  
 13 oyed. (See Introduction Page 1 of 33)

14

15

16 IV. Cont..., REQUEST FOR RELIEF.

17

18

19 Original physical mail - violates the First  
 20 Amendment to the U.S. Constitution.

21

22

23 B. Declare that Defendants' mail policy  
 24 violates Article 1, Section 2 of the California  
 25 Constitution.

26

27

28 C. Declare as applied to Plaintiff Tijne  
 Page 3 of 3. (2)



1 Adolphus McGhee, Defendants' mail policy  
2 violates the Religious Land Use and Insti-  
3 tutionalized Persons Act.

4

5

6 D. Order Defendants and their agents for  
7 hire from digitizing and subsequently destro-  
8 xing incoming physical mail.

9

10

11 E. Order Defendants to expunge all copies  
12 of plaintiff's mail collected through Mail-  
13 Guard.

14

15

16 F. Issue injunctive relief, to cease the  
17 Defendants use of the "policy" that is in fact  
18 in conflict with the Constitution, illegal,  
19 Unlawful, and Unenforceable.

20

21

22 G. Award Plaintiff compensatory damages  
23 for erecting a policy that has violated, and  
24 continues to violate protected First Amendment  
25 rights, which include, but are not limited to, pursu-  
26 ance of institutional grievances, religious expression, and  
27 Familial or political association.

28



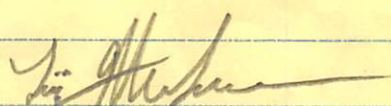
1 H. Award Plaintiff punitive damages against  
2 defendants willful knowing that prisons or jails  
3 "may not" adopt policies that, intentionally or  
4 not, have a "chilling effect" on protected  
5 conduct. In an amount as yet to be  
6 deduced from the evidence, but in no  
7 event in an amount less than \$1,000,  
8 000.00 and,

9  
10  
11 I. Award Plaintiff reasonable costs  
12 and attorney's fees incurred in this  
13 action.

14  
15  
16 J. Any other relief that this Court may  
17 deem just and proper.

18  
19  
20 K. Trial by jury is hereby demanded on  
21 all claims alleged herein, and the parties  
22 are hereby given notice, pursuant to Fed. R.  
23 Civ. P. 38(a)-(c).

24  
25 Respectfully submitted this \_\_\_\_\_

26  
27  
28  
  
Tijne Adolphus McBee



## INTRODUCTION

1  
2  
3 1. San Mateo County's mail policy serves  
4 no legitimate penological purpose. The policy  
5 of San Mateo County digitizing and willfully  
6 destroying mail sent to Plaintiff inside its  
7 jail facility depriving plaintiff of physical  
8 letters, drawings, cards, and "conducting  
9 suspicionless surveillance of not only mail but  
10 the individual senders of that mail." In 2021,  
11 San Mateo County banned plaintiff, as well  
12 as others inside the County's jails from re-  
13 ceiving any physical mail other than attorney  
14 and court communications by U.S. Mail Delivery.  
15 Under this "policy", the individual senders  
16 of U.S. mail must route all letters, cards,  
17 drawings etc., to, "SMART COMMUNICATIONS", a  
18 private for-profit company stationed/headquar-  
19 tered in Florida, where this company scans  
20 Plaintiff's mail, destroys every piece of  
21 the originals and "stores digital copies for  
22 a minimum of seven years in the private  
23 for-profit company Smart Communications Data  
24 Base."

25  
26  
27 2. By the service provided, called MailGuard  
28 plaintiff can only access digital copies of his  
Page 1 of 33.



1 mail only if plaintiff agrees to the MailGuard  
 2 terms of use, and only by use of the  
 3 tablets and kiosks provided to be used in  
 4 public spaces on camera. The stored  
 5 digital copies can be accessed by the Coun-  
 6 ty without question or obstacle at any  
 7 pleasing convenience of every piece of U.S.  
 8 mail received courtesy of "SMART COMMUNICAT-  
 9 IONS".

10  
 11  
 12 3. San Mateo County's policy banning  
 13 U.S. postal mail and then subjecting digital  
 14 copies to long-term surveillance violates  
 15 the expressive, associational both  
 16 family wise, community wise, privacy, and the  
 17 religious rights of plaintiff in it's jails as  
 18 well, including those presumed innocent, and  
 19 all others who send mail to the plaintiff.

20  
 21  
 22 4. The "policy" violates the rights of  
 23 the plaintiff and the sender of the mail  
 24 to an increased and ongoing unwarranted  
 25 surveillance by San Mateo County and others.  
 26 Which further makes the "policy" illegal, un-  
 27 lawful, and unconstitutional from the ini-  
 28 tial birthing of the "policy" built and based



1 on deceit. Once again the "policy" serves  
 2 no legitimate penological purpose and  
 3 only undermines the community trust.  
 4  
 5

6 5. There is no justification with  
 7 a decision to "ban" mail with over exagger-  
 8 ated concerns about "Fentanyl exposures", or  
 9 that "the mail is a 'significant' source" for  
 10 drugs being brought into jails of San  
 11 Mateo County. County officials can access  
 12 the additional sensitive information that  
 13 "SMART COMMUNICATIONS" collects from indivi-  
 14 duals who send mail to the County jails, spy-  
 15 ing and in breach, and abuse of the office  
 16 of trust they occupy". and sign up for it's  
 17 mail tracking service. Illegal, Unlawful,  
 18 and Unconstitutional.  
 19  
 20

21 6. Legal injury is defined as the viol-  
 22 ation of a legal right for which the law  
 23 "provides a remedy". Wrong or damage done  
 24 to another, either in his or her person, rights,  
 25 reputation or property. Officials are entitled  
 26 to some deference in administering jails and  
 27 prisons, the Supreme Court has long emphas-  
 28 ized that judicial review of speech-restrictive



1 policies in these settings are not toothless.

2

3

4 7. Plaintiff, on the date of 12-18-2022  
5 filed a grievance to the sergeant at the  
6 "Maguire Correctional Facility" pertaining to the  
7 impeding of his U.S. Postal mail. Plaintiff seeks  
8 declaratory, injunctive, and monetary relief  
9 from "San Mateo County's mail policy". As descr-  
10 ibed further, San Mateo County's elimination  
11 of physical U.S. mail and use of MailGuard  
12 violates the First Amendment to the  
13 U.S. Constitution and Article 1, Section 2  
14 of the California Constitution by denying the  
15 plaintiff and others the ability to use a  
16 uniquely expressive medium of communication  
17 by "chilling the expressive and associational  
18 activity".

19

20

21 8. San Mateo County's mail "policy" violates  
22 the Religious Land Use and Institutionalized  
23 Persons Act because of how it substantially  
24 burdens the ability of the plaintiff Tjue  
25 Adolphus McBlue to receive, study, and  
26 share religious materials and it is not the  
27 least restrictive means of achieving any  
28 compelling interest of the County.



# FACTS

## SMART COMMUNICATIONS & MAILGUARD

9. Smart Communications is a Florida-based company founded in 2009 that markets its services to prisons and jails around the country, emphasizing its ability to help law enforcement monitor phone calls, video visits, and electronic and physical correspondence.

10. This case concerns "SMART COMMUNICATIONS' MAILGUARD" service, which prisons and jails use to eliminate physical mail behind bars. When a prison or jail implements Mail Guard, it redirects physical mail to a facility in Florida run by Smart Communications. There, Smart Communications will open, scan, and upload digital copies of the mail into a proprietary database accessible to correction and law enforcement officers through a searchable dashboard.

11. SMART COMMUNICATIONS will then "destroy the physical mail".



1 12. Utilizing the dashboard, corrections offi-  
2 cers can review mail and either approve or re-  
3 ject it. If approved, a digital copy of the  
4 mail may be accessed by its recipient, typ-  
5 ically via tablets or kiosks provided by,  
6 SMART COMMUNICATIONS.

7  
8  
9 13. Many prisons and jails have histor-  
10 ically subjected incoming physical mail to an  
11 initial review before delivery to its recip-  
12 ient. The use of MailGuard, however, departs  
13 from this practice in two important ways.

14  
15  
16 14. First, MailGuard involves the elimination of  
17 physical mail. Some facilities, including those  
18 in San Mateo County, exempt privileged legal  
19 mail, but all other physical mail is simply forbidden.  
20 As discussed below, the MailGuard service repl-  
21 aces physical mail with scans that have to be  
22 read on small tablets or kiosks that are  
23 in high demand and are located in public  
24 spaces.

25  
26  
27 15. Second, the use of MailGuard subjects  
28 incoming mail and those who send it to surve-  
Page 6 of 33,



1 illance that is unprecedented in its scope  
2 and duration:

3     a. Smart Communications stores the mail  
4 sent through MailGuard for a minimum of  
5 seven years, subjecting both the senders and  
6 recipients of mail to long-term surveillance. In  
7 its Contrast with San Mateo County, for exam-  
8 ple, "Smart Communications agreed that it  
9 would store all digitized mail for seven years  
10 from the date of the inmate's release from  
11 the County Facility." (In late 2018, Jon Logan,  
12 the founder and CEO of Smart Communications,  
13 told a reporter for Mother Jones that, in its  
14 first ten years of business, Smart Commu-  
15 nications had never deleted any records or  
16 any data from its database, adding that  
17 Smart Communications has "hundreds of millions  
18 of data records stored for investigators at  
19 anytime").

20  
21     b. Smart Communications keeps the mail it  
22 scans in a searchable database. On informat-  
23 ion and belief, "Smart Communications allows  
24 law enforcement officers to run unlimited  
25 keyword searches on the entire corpus of  
26 digitized mail or to set keyword flags that  
27 will "notify" officers whenever a selected keyword  
28 is used in a new piece of incoming mail.



1 Because MailGuard is used on incoming mail, this  
 2 surveillance implicates not only the incarcerated  
 3 recipients of mail, but also the family members  
 4 friends, religious advisors, and others who send  
 5 plaintiff mail.

6  
 7 C. Lastly, on information and belief, this  
 8 surveillance encompasses not just mail but a  
 9 great deal of other information as well. "Mail  
 10 Guard gives prison and jail officials access  
 11 to sensitive and previously unavailable  
 12 information about at least some senders  
 13 of mail, including their phone numbers, physical  
 14 addresses, IP addresses, email addresses, credit  
 15 card and banking information, and GPS lo-  
 16 cations". Smart Communications collects this  
 17 information through a service that allows the  
 18 senders of mail to "track postal mail delivery," but  
 19 which Smart Communications has advertised ~~to~~  
 20 prisons and jails as collecting "significant new  
 21 intelligence into the public sender of the  
 22 postal mail, giving postal mail a digital fingerprint."

23  
 24 Example: "On the date of 7-12-2023 Wednes-  
 25 day, at or about 7:36pm. San Mateo County Sheri-  
 26 ff's Jail corrections officer K. Nguyen offered  
 27 to access the incoming message on the message  
 28 app available on the tablet supplied by "SMART



1 COMMUNICATIONS", which plaintiff could not access  
 2 due to no positive credits in the account  
 3 with Smart Communications". So, corrections officer  
 4 K. Nguyen sat at the computer terminal and  
 5 accessed the incoming message from one,  
 6 "James Anderson" who plaintiff does not know,  
 7 and explained to plaintiff that the individual  
 8 was a "freelance reporter from Riverside  
 9 California who wanted plaintiff's opinion on  
 10 the Correctional Facilities". (FACT)

11  
 12  
 13 16. It is no surprise, then, that Smart  
 14 Communications markets MailGuard as "an inval-  
 15 uable investigative/intelligence gathering tool"  
 16 that provides a "massive increase in investigative  
 17 intelligence gained on both inmate and public  
 18 users". The very purpose of the service is to  
 19 give law enforcement officers, like those in  
 20 San Mateo County, the ability to obtain and  
 21 examine unprecedented intelligence about in-  
 22 carcerated and nonin carcerated correspondents  
 23 alike. Ruiz v. Morton, 462 F.2d 818 (9th Cir. 1972).  
 24 Administrative rules and regulations "Must Comport"  
 25 with the purpose and scope of their progen-  
 26 itorial statute; They "May Not" extend or  
 27 outreach statutory authority).



1 17. California Government Code §11342.2: The  
 2 standard of review in evaluating the validity  
 3 of "Department's Regulations" was explained  
 4 in *In re Edwards*, supra, 26 Cal. App. 5th at  
 5 page 1189, 237 Cal. Rptr. 3d 673: (In order  
 6 for a regulation /policy to be valid, it "must"  
 7 be (1) consistent with and not in conflict  
 8 with the enabling statute and (2) reason-  
 9 ably necessary to effectuate the purpose  
 10 of the statute. (Gov. Code §11342.2)  
 11 [citations] Therefore, "The rulemaking authority  
 12 of the agency /county is circumscribed by  
 13 the substantive provisions of the law govern-  
 14 ing the agency /county." [citation.] "The task  
 15 of the reviewing Court in such a case is  
 16 to decide whether the agency /county re-  
 17 sonably interpreted [its] legislative mandate.  
 18 .. There is no County /Agency discretion to  
 19 promulgate a regulation /policy which is  
 20 inconsistent with the governing statute).  
 21 Whether the force of administrative con-  
 22 struction ... final responsibility for the  
 23 interpretation of the law rests with the  
 24 Courts... Administrative regulations /policy  
 25 that alter or amend the statute, or en-  
 26 large or impair its scope are "void".  
 27  
 28



1 18. Just as Federal regulations cannot  
 2 undermine acts of Congress, "nor can city  
 3 or County policies circumscribe State or Fed-  
 4 eral Statutes". U.S. v. Kirvan, 86 F.3d 309 (2nd  
 5 Cir. 1996) (Federal regulations cannot undermine  
 6 acts of Congress); U.S. Marolf, 173 F.3d 1213  
 7 (9th Cir. 1999) (administrative regulations  
 8 cannot sanction the violation of Consti-  
 9 tutional or Statutory rights).

10  
 11  
 12 19. Many rights are retained by prisoners,  
 13 like the plaintiff, and cannot be genu-  
 14 inely disputed, included those guaranteed  
 15 under the U.S. Constitution and other  
 16 Federal and state rights assured  
 17 to the people via the application of  
 18 Constitutional Due Process.

19  
 20  
 21 20. Prior to April 2021, anyone wishing  
 22 to communicate with people incarcerated  
 23 in San Mateo County's jails could send mail  
 24 directly to the facility. Corrections officers  
 25 would inspect the mail for the presence  
 26 of drugs or other threats to facility  
 27 security, "often with the assistance of  
 28 trained drug-sniffing dogs and TruNav,



1 "a Raman Spectroscopy" device that scans mail  
2 and packages for the presence of narcotics!  
3 Once mail was approved, it was delivered directly  
4 to its recipient, who could read (or re-read)  
5 the mail at any time and keep it with  
6 other personal belongings in their cell.  
7  
8

9 21. In 2021, "with no opportunity for  
10 public comment or feedback, San Mateo  
11 County abruptly decided to eliminate phys-  
12 ical mail within its facilities. On April 6,  
13 2021, the sheriff's office issued a press  
14 release stating that, "later that month,  
15 it would begin destroying and digitizing  
16 incoming mail using Smart Communications  
17 Services. After that announcement, the  
18 sheriff's office informed its corrections  
19 officers of the upcoming change" and issued  
20 a request for proposals relating to  
21 "mail destruction" and digitization services!  
22 In May 2021, after MailGuard had already  
23 been in place for over a month at both  
24 Maguire Correctional Facility and Maple Str-  
25 eet Correctional Center, San Mateo County  
26 announced that it would award the contract  
27 to Smart Communications.  
28



1 22. San Mateo County formally entered into  
2 an agreement with Smart Communications on  
3 September 1, 2021. Pursuant to that agree-  
4 cement, the County agreed to adopt MailGuard  
5 and to make digitized mail accessible  
6 only on communal tablets and kiosks  
7 provided by Smart Communications. The agree-  
8 ment does not require Smart Communications  
9 to treat mail it receives confidentially;  
10 it does not limit Smart Communications'  
11 ability to access or disseminate the  
12 information it collects; it does not  
13 require Smart Communications to institute  
14 specific security practices to minimize  
15 the risk of data breaches; it does not  
16 prohibit Smart Communications from collect-  
17 ing and monetizing information about the  
18 senders and recipients of mail".

19

20

21 23. Although the agreement purports  
22 to exclude religious mail, in actual pra-  
23 ctice the County subjects incoming religious  
24 correspondence to the mail policy, requiring  
25 it to also be sent to Florida where it is  
26 digitized and destroyed".

27

28



## Obstruction of Correspondence

24. Title 18 Chapter 83 Postal Services (§ 1691-1738) 18 U.S.C. § 1702 reads as such: "Whoever takes any letter, postal card, or package out of any post office or any authorized depository, ~~for~~ mail matter, or from any letter or mail carrier, or which has been in any post office or authorized depository, or in the custody of any letter or mail carrier, before it has been delivered to the person to whom it was directed," with design to obstruct the correspondence, or to pry into business or secrets of another, or opens, secretes, embezzles, or destroys the same", shall be fined under this title or imprisoned not more than five years, or both!" History: Act June 25, 1948, ch 645, § 1, 62 Stat. 778; Sept 13, 1994, P.L. 103-322, Title XXXIII, § 330016(1)(1), 108 Stat. 2147.

25. San Mateo County is under the Federal statute with the State of California, which is made applicable to the States via Congress's authority to legis-



1 late under the "Spending Clause" of the  
 2 U.S. Constitution. This means that if a state  
 3 receives Federal money by virtue of a Federal  
 4 law providing for state programs, the  
 5 state "must adhere" to Federal policy con-  
 6 cerning those programs. Should a state  
 7 run afoul of the "Controlling Federal law",  
 8 a state citizen can bring a suit under  
 9 that Federal law directly against the  
 10 state government in Federal court, be-  
 11 cause in accepting Federal money the  
 12 state effectively waives its Eleventh  
 13 Amendment Immunity" with regard to the  
 14 programs it is supposed to operate with  
 15 the Federal funding in question.

16

17

18 26. San Mateo County's Misconduct has  
 19 violated, and is still violating, (1) A Consti-  
 20 tutionally Protected Right That Was (2) A  
 21 Clearly Established Constitutionally Protect-  
 22 ed Right At The Time Of The Incident  
 23 Under Review. Marbury v. Madison, 5 U.S. 137 (1803)  
 24 ANY LAWS, STATUTES, REGULATIONS, OR GOVERN-  
 25 MENT POLICY IN CONFLICT WITH THE CONSTI-  
 26 TUTION ARE UNENFORCEABLE. Ruiz v. Morton,  
 27 462 F.2d 818 (9th Cir. 1972) (administrative rules  
 28 and regulations "must comport" with the purpose



1 and scope of their progenitorial statute; they  
 2 "may not" extend or outreach statutory authority)  
 3 U.S. v. Marolf, 173 F.3d 1213 (9th Cir. 1999) (admin-  
 4 istrative regulations "cannot sanction" the  
 5 violation of constitutional or statutory rights).

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

27. San Mateo County's mail policy subjects both senders and recipients of mail to long-term and "suspicionless surveillance, including for reasons unrelated to the safety of the County's jails."

28. Through MailGuard, San Mateo County has centralized and long-term access to an "extraordinary new field of information about incoming mail and those who send it." Through a program provided by Smart Communications, called the "SMART ECOSYSTEM DASHBOARD," San Mateo County officials can access digital copies of each piece of incoming non-legal mail received since MailGuard was put to use in 2021. The dashboard also provides access to information collected about the senders of mail, including, on information and belief, information gathered through its mail tracking service.



1 29. Next, San Mateo County permits  
2 law enforcement officers from across  
3 the jurisdiction - including investigators  
4 in the sheriff's office, the district attor-  
5 ney's office, and in other municipalities to  
6 search this information at any time, for  
7 any reason or no reason at all. San Mateo  
8 County does not, for example, require law  
9 enforcement officers to seek any sort of  
10 approval internally or articulate any  
11 individualized suspicion of wrongdoing be-  
12 fore conducting searches in the Smart  
13 Ecosystem Dashboard. The County's Corrections  
14 Manual instructs corrections officers in particular  
15 to "read [correspondence] as frequently as deemed  
16 necessary to maintain security or monitor a  
17 particular problem." On information and belief,  
18 County officials have used their authority  
19 to search through the dashboard freely.

20  
21

22 30. San Mateo County has never adequately  
23 explained its decision to adopt this mail policy,  
24 "nor is there a legitimate government interest  
25 in retaining it." In the County's initial press  
26 release announcing the adoption of MailGuard,  
27 the County said only that it would "make  
28 some changes to the way people receive mail"



1 to prioritize the safety and security of  
 2 those in our correctional facilities." Rios  
 3 v. Lane, 812 F.2d 1032 (7th Cir. 1987) (Sparsely  
 4 worded rule not otherwise substantiated or  
 5 explained by other available sources held  
 6 impermissibly vague where prisoners could  
 7 not ascertain what conduct the rule  
 8 prohibited); Connally v. General Construction  
 9 Co., 269 U.S. 385, 391, — S.Ct. —, — L.Ed.2d —  
 10 (1926) (a statute or rule under which  
 11 a person can be punished for its violation  
 12 must not "forbid ... or require ... the doing  
 13 of an act in terms so vague that men  
 14 of common intelligence must necessarily  
 15 guess at its meaning and differ as to  
 16 its application."); Flagner v. Wilkinson,  
 17 241 F.3d 475 (6th Cir. 2001) (courts should  
 18 not defer to administrative decision or  
 19 policy when substantial evidence demon-  
 20 strates prison officials have exaggerated  
 21 their response).

22  
 23  
 24 31. In response to the criticism of  
 25 the decision on Facebook, the sheriff's  
 26 office asserted that "our changes are  
 27 to help keep everyone safe since there  
 28 has been some concerns regarding fentanyl



1 exposures with the old mail system we were  
 2 using." (Concerning, but proof unsupported). The  
 3 County has said virtually nothing else to  
 4 explain the decision. U.S. v. Morton, 467 U.S.  
 5 822, 834, 104 S.Ct. 2769, 81 L.Ed. 2d 680 (1984)  
 6 (where Congress has authorized the promulgation  
 7 of regulations for implementation of a  
 8 statute, such regulations are given "le-  
 9 gislative and hence controlling weight un-  
 10 less they are arbitrary, capricious, or  
 11 plainly contrary to the statute."). Due  
 12 Process Clause bars arbitrary government  
 13 conduct, regardless of the ultimate  
 14 fairness of the procedures involved.

15  
 16  
 17 32. San Mateo County has never publicly  
 18 suggested that fentanyl was a significant  
 19 problem within its facilities, that the  
 20 presence of fentanyl was significantly  
 21 increasing, or that any data pointed to  
 22 mail as a significant source of fentanyl.  
 23 (Concerns of exposure without substantiated  
 24 evidence does not relate to legitimate  
 25 penological interest). Indeed, although  
 26 the "sheriff's office has not provided infor-  
 27 mation on fentanyl-related drug incidents,"  
 28 an outside study of fentanyl overdoses



1 around the United States revealed that, be-  
2 tween 2013 and March 30, 2021, "there were no  
3 publicly reported Fentanyl - related overdoses in  
4 either of the County jails!"

5  
6  
7 33. San Mateo County and Sheriff's Office  
8 excuse is vague and unsubstantiated in its  
9 inception as well as vague and unsubstanti-  
10 ated in their expression. The Medical Nursing  
11 Staff Itself issues out 100mg to 300mg shots  
12 of suboxone which forms a hard protrusion that  
13 spreads after the injection. Those who have  
14 received these "suboxone" shots, a sufficient  
15 number of those people have become  
16 "sick", "nauseated", and vomiting also occurred!  
17 If there was an overdose in either jail, the  
18 overdose would come from the prisoner being  
19 issued "Methadone" inside the jail by the  
20 medical nursing staff known as nurse practitioners.

21  
22  
23 34. Nor is there evidence that mail is a sig-  
24 nificant source of Fentanyl or other drugs  
25 in San Mateo County's jails. Court records,  
26 Federal investigations, and public state-  
27 ments instead show that the "primary  
28 channel through which drugs are introduced



1 into jails and prisons is "staff". For example,  
2 the executive director of the Missouri Corre-  
3 ctions Officers Association admitted in  
4 2022 that staff were the main source  
5 of drugs in Missouri jails. Also in 2022,  
6 a New York City Department of Corrections  
7 investigator testified in a Federal court  
8 that drugs and other contraband can  
9 "usually" be traced to jail staff and  
10 officers.

11  
12  
13 35. Also, in a 2019 report on conditions  
14 in the Alabama prison system, the U.S.  
15 Department of Justice described interviews  
16 with multiple officials who confirmed that the  
17 staff smuggling was the primary source of  
18 drugs, and it recommend screening all staff  
19 for drugs in the future.

20  
21  
22 36. In San Mateo County itself, staff  
23 smuggling also appears to be a problem: mul-  
24 tiple jail employees have pleaded no contest  
25 to charges that they smuggled drugs in  
26 to its jails. So as far as mail-related  
27 trafficking of drugs it is a rare event,  
28 and a highly exaggerated response by anyone



1 employed by the County of San Mateo, or  
2 within the San Mateo County's Sheriff's  
3 Office.  
4  
5

6 37. Florida State Prisons, another fine  
7 example, less than 2% of the contra-  
8 band items confiscated over a 2-year  
9 period were traced back to mail, and only  
10 0.35% of mail contained contraband.  
11

12  
13 38. Texas, the rate of mail with  
14 suspicious or "uninspectable" substances-  
15 -which would include drugs as well as  
16 stickers or fragrances was only 0.5%  
17 in 2019.  
18

19  
20 39. There is also very little evidence  
21 that mail digitization reduces the preva-  
22 lence of drug use or drug overdoses in  
23 jails or prisons.  
24

25  
26 40. Pennsylvania's statewide adoption  
27 of MailGuard, the drug test positivity  
28 rate actually "increased". Like wise, after



1 Missouri contracted with a different com-  
2 pany to digitize and "destroy incoming  
3 mail", the number of average overdoses  
4 in the state's jails and prisons increased  
5 from 31 to 37 per month.  
6  
7

8 41. New Mexico, the example hereafter  
9 prisons banned physical mail, the drug  
10 test positivity rate nearly doubled.  
11

12  
13 42. So, "Any claims that San Mateo  
14 County may make to justify the elim-  
15 ination of physical U.S. mail because  
16 of health effects on staff who  
17 handle drug-laced mail would be  
18 similarly unsupported." "There is no evi-  
19 dence that drug-laced mail poses a seri-  
20 ous threat, or security safety to prison  
21 staff who inspect it."  
22

23  
24 43. The New York Times and others  
25 have reported, "scientific literature  
26 has shown definitively that brief contact  
27 with Fentanyl, even without gloves or  
28 other common protective clothing, is insuf-



1 efficient to cause a high, let alone an  
 2 overdose). And in any event, "the digiti-  
 3 zation and destruction of mail does  
 4 not actually eliminate the need to handle  
 5 the mail; it simply shifts the responsibility  
 6 for doing so to others working at the  
 7 behest of the County!!

8  
 9  
 10 44. San Mateo County has not attempt-  
 11 ed to explain why other, "less speech-  
 12 restrictive" and more "privacy-protective"  
 13 tools that could limit drug use in its  
 14 facilities are insufficient.

15  
 16  
 17 45. For example, the County had previo-  
 18 usly used "drug-sniffing dogs" and  
 19 Raman spectroscopy devices to scan mail for  
 20 the presence of drugs! There is a machine  
 21 in the booking area downstairs of the Maguire  
 22 Correctional Facility, that is used to scan each  
 23 individual upon entering the Facility, or  
 24 when there is reason to believe "by the  
 25 gathered evidence" an inmate is in the  
 26 possession of drugs. FACTS!



1 46. The example in Marin County, in the  
 2 month of February the 27th, 2023, it  
 3 was reported in the Mercury News that  
 4 a "San Quentin State Prison Corrections  
 5 Officer was given 20 months in Federal  
 6 prison for the smuggling of 25 cell-phones  
 7 to a prisoner on death row. Keith  
 8 Christopher, 38, of Pittsburg California was  
 9 sentenced by U.S. District Judge Susan  
 10 Illston. "Prosecutors asked for a 27-  
 11 month sentence, arguing that Christopher  
 12 betrayed his colleagues and the public,  
 13 and said he started accepting bribes to  
 14 smuggle phones after his probationary  
 15 period at the prison ended in 2018. He  
 16 then submitted a letter to the Court, "apologizing  
 17 for lack of integrity displayed  
 18 and dishonor to the oath he made as  
 19 a correctional officer." I understand that  
 20 "I compromised the "safety and security" of  
 21 the institution and the public by my actions  
 22 ions", he wrote.

23  
 24  
 25 47. Also, again in April of 2023, San  
 26 Jose Police Union: The bombshell Federal  
 27 drug trafficking charges filed the previous  
 28 week against the executive director



1 of the San Jose Police Union on how "long-  
 2 time office manager was able for years to  
 3 run the alleged "opioid smuggling scheme" ri-  
 4 ght under the noses of police in America's  
 5 10th largest city". Joanne Segovia Faces  
 6 drug trafficking charges and 20 years in  
 7 federal prison for the "decade-long opioid and  
 8 fentanyl distribution network" that she  
 9 reportedly ran through her home and the  
 10 San Jose Police Officers Association Office  
 11 where she has been the executive direc-  
 12 tor since 2003.

13

14

15 48. It is like 'Breaking Bad', San Jose  
 16 Edition", said Raj Jayadev, a police reform  
 17 activist with Silicon Valley De-Bug. "To  
 18 have an international drug circle for nearly  
 19 a decade, right across the street from  
 20 police - what is the larger ecosystem that  
 21 would allow that to occur?" The kingpin  
 22 for these drugs landing in the bodies of  
 23 young people "came from the same body  
 24 that was doing the arresting".

25

26

27 49. So, nearly 6,000 Californians died  
 28 from fentanyl overdose in 2021. (Myself &  
 Page 26 of 33.



1 included of those overdoses who was able  
2 to be brought back to life February 7th,  
3 2021 at San Francisco General Hospital). In-  
4 cluding 125 in Santa Clara County. That  
5 same year the most recent for which  
6 full data is available - Fentanyl was  
7 behind an astounding 1 in 5 deaths  
8 of California youths between ages  
9 of 15 to 24, according to a recent ana-  
10 lysis by the Mercury News Organization.  
11  
12

13 50. So, Rather than serve San Mateo  
14 County's penological interest, the County's  
15 mail policy harms them. Correspondence  
16 plays a crucial role in strengthening commu-  
17 nity and family connections, improving  
18 post-release outcomes, and promoting  
19 better mental health.  
20  
21

22 51. For instance, studies have found  
23 that more frequent family contact, incl-  
24 uding through letters, is associated with  
25 greater feelings of connectedness;  
26 stronger parent-child relationships;  
27 improved mental health for incarcerated  
28 people; reduced depression and anxiety



1 for children of incarcerated parents; and  
2 a higher likelihood of housing stability,  
3 income self-sufficiency, and educational  
4 or vocational advancement. C.D.C.R. and  
5 the Federal Bureau of Prisons recognize and  
6 encourage the importance of this comm-  
7 unication while incarcerated.

8  
9  
10 52. Studies confirm that letter-writing  
11 creates space for communication in which  
12 both senders and recipients have time  
13 for reflection. Other studies have em-  
14 phasized that physical objects are  
15 associated with permanence and emo-  
16 tional attachment.

17  
18  
19 53. The County's mail policy deprives  
20 plaintiff of these benefits. Limited  
21 access to scanned mail does not provide  
22 the contemplative space or privacy  
23 necessary to further build relationships  
24 or help to advance plaintiff with his  
25 religious and educational studies that  
26 come from the access to the original  
27 physical copies.



1 54. San Mateo County along with the  
 2 Sheriff's Office chose to allow and  
 3 implement a "policy" which they knew or  
 4 should have known to be unlawful, un-  
 5 constitutional, impedes and infringes  
 6 on plaintiff's Constitutionally established  
 7 rights by destroying actual mail of  
 8 the plaintiff, to which plaintiff did  
 9 not consent to, or even knew that  
 10 his mail would be "destroyed" by a private  
 11 for-profit company "SMART COMMUNICATIONS" in  
 12 the state of "FLORIDA" close to 5,000 miles  
 13 away that plaintiff is not a resident of.

14  
 15

16 55. Plaintiff has never consented to  
 17 the destruction of mail, and the intrusive  
 18 unwarranted surveillance of his family for  
 19 a County and prison officials over exagger-  
 20 ated response to fentanyl drug traffick-  
 21 ing by mail in San Mateo County Jails.

22  
 23

24 56. On information and belief, mail is  
 25 not a significant reliable source of fentanyl  
 26 or other drugs in the San Mateo County  
 27 Jails. The mail policy undermines San Ma-  
 28 teo County's penological interests for, Admin  
 Page 29 of 33.



1 istrative regulations," "policy" that alter or  
 2 amend the statute or enlarge or imp-  
 3 air its scope are "void". Once again, just  
 4 as Federal regulations cannot undermine  
 5 or circumscribe acts of Congress, nor can  
 6 city or County policies circumscribe state  
 7 or Federal statutes, which therefore  
 8 makes that "policy" unlawful, Unconsti-  
 9 tutional and quite logically Unenforcea-  
 10 ble.

## 11 12 13 CAUSES OF ACTION 14 COUNT ONE

15 First Amendment to the U.S. Constitution  
 16 (42 U.S.C. § 1983) For Plaintiff  
 17 Against All Defendants.

18  
19  
20 57. Defendant's mail policy, which includes  
 21 opening, examining, destroying, and digitiz-  
 22 ing physical mail and sender information for  
 23 subsequent investigative use, violates the  
 24 First Amendment because it eliminates an  
 25 entire medium of communication, because it  
 26 "chills" the expressive and associational  
 27 activity of Plaintiff, because it is not  
 28 rationally related to any legitimate peno-



1 logical goals, and because it leaves no  
2 adequate alternatives to communication  
3 via physical mail.  
4  
5

6 58. In carrying out this policy,  
7 Defendants act under color of state  
8 law to operate a program that violates  
9 the First Amendment.  
10  
11

## 12 COUNT TWO

13 Article I, Section 2 of the California  
14 Constitution For Plaintiff  
15 Against All Defendants.  
16  
17

18 59. For the same reasons, Defendants'  
19 mail policy violates Article I, Section 2  
20 of the California Constitution.  
21  
22

## 23 COUNT THREE

24 Religious Land Use and Institutionalized Persons  
25 Act (42 U.S.C. § 2000cc et. seq.)  
26 For Plaintiff Against All Defendants.  
27  
28



1 60. Defendants' mail policy, as applied to  
 2 Plaintiff Tije Adolphus McGhee violates the  
 3 Religious Land Use and Institutionalized Persons  
 4 Act ("RLUIPA") because of the imposition of  
 5 a substantial burden on his ability to access,  
 6 study, and share religious texts and due  
 7 to it not being the least restrictive means  
 8 of achieving any compelling government inter-  
 9 est.

10  
 11  
 12 61. RLUIPA does apply to Defendants' cond-  
 13 uct because Defendants receive Federal  
 14 Funding to operate the San Mateo County  
 15 Sheriff's Office, which includes its correcti-  
 16 ons division. Additionally, it is clear Defend-  
 17 ants' policy affects interstate commerce  
 18 because it affects U.S. federal mail.

19  
 20  
 21 62. Your Honor, this is about the mail and  
 22 the deceitful approach in the erecting of a  
 23 "policy" that is arbitrary, capricious and unreas-  
 24 onable by an overreaching, exaggerated reason  
 25 and response clearly unsupported by evidence  
 26 to deprive plaintiff of his clearly established  
 27 right protected by the U.S. Constitution.  
 28 The mail on the tablets are not in anyway



1 the "original letters", "cards", or pictures  
 2 plaintiff would have received by way of  
 3 regular processing of U.S. postal mail. The  
 4 electronically generated copies are exact-  
 5 ly what they are, "copies", of the original  
 6 mailed papers that have been "destroyed".  
 7 Never again to be retrieved in their original  
 8 state. San Mateo County, and the Sheriff's  
 9 office are "harvesting" information elec-  
 10 tronically "to spy". See Aaron Gordon, Prison  
 11 Mail Surveillance Keeps Tabs On Those On the  
 12 Outside, Too, Vice. (Mar. 24, 2021), [https://www.vice.com/en/article/wx8ven/prison-mail-surveillance](https://www.vice.com/en/article/wx8ven/prison-mail-surveillance-company-keeps-tabs-on-those-on-the-outside-too)  
 13 [company-keeps-tabs-on-those-on-the-outside-](https://www.vice.com/en/article/wx8ven/prison-mail-surveillance-company-keeps-tabs-on-those-on-the-outside-too)  
 14 [too](https://www.vice.com/en/article/wx8ven/prison-mail-surveillance-company-keeps-tabs-on-those-on-the-outside-too). Just like "Artificial Intelligence", we  
 15 are dealing with "copied material", "not  
 16 authentic", unlike the originals that  
 17 plaintiff will not ever be able to take  
 18 with him upon his release from the custody  
 19 of San Mateo County's Corrections Division.  
 20 (A lie does not become truth, wrong does  
 21 not become right, and evil does not be-  
 22 come good, just because it is accepted  
 23 by a majority).  
 24  
 25  
 26  
 27  
 28



## Proof of Service

On the date of July 24th, 2023, I Tijue Adolphus McGhee, Did file a 42 U.S.C. § 1983 Civil Rights "Amended Complaint" with the United States District Court Northern District of California in Alameda County city of Oakland. Did place with the "Amended Complaint" By A Prisoner Under 42. U.S.C. § 1983, this Proof of Service By Mail.

I, Tijue Adolphus McGhee, do hereby declare under penalty of perjury that the foregoing is true and correct under the laws of the State of California and under the laws of the UNITED STATES OF AMERICA.

X 

Date: July 24th, 2023.



Tijue McGhee #H56331  
MAGUIRE CORRECTIONAL FAC. /S-W-02  
300 BRADFORD STREET  
REDWOOD CITY, CA. 94063



|| LEGAL  
MAIL ||

U.S. DISTRICT COURT  
NORTHERN DISTRICT OF  
CALIFORNIA  
1301 CLAY STREET, 400 S. TOWER  
OAKLAND, CA. 94612-5212

Attn: [COURT CLERK Mr. Busby



LEGAL

MAIL

!

7/24/2023 HOUSTON V. LACK  
(1988)

— LEGAL MAIL —